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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 20, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE010072

CASE NO. PUE980628

CASE NO. PUE000567

AUBON WATER COMPANY,

Defendant

ORDER FOR NOTICE AND GRANTING LEAVE TO
FILE OBJECTIONS, COMMENTS, OR REQUESTS FOR
HEARING AND DIRECTING STAFF REPORT TO BE FILED

On March 30, 2001, the Commission extended the receivership appointment of David G. Petrus ("Petrus" or "Receiver") and approved an Amended Plan of Receivership ("Plan") for Aubon Water Company ("Aubon") in Case No. PUE010072.

Pursuant to paragraph 5 of the Plan, the Receiver is required to obtain the prior written approval of the Commission before selling or otherwise transferring the assets of Aubon. On September 7, 2001, the Receiver, by counsel, filed a Request for Approval to Transfer Assets, with an attached agreement which provides for the transfer of Aubon's Franklin Heights assets to the Town of Rocky Mount ("Agreement"). Pursuant to the terms of the Agreement, the Receiver will continue to provide water utility service to the Franklin Heights

subdivision, pending the final transfer of all assets in Franklin Heights. The Agreement was executed by the Receiver and the Town Manager of Rocky Mount and by its terms, was set to expire on August 31, 2001. However, on September 13, 2001, the Receiver, by counsel, filed an extension of the Agreement for a period of 90 days, beginning July 31, 2001. Thus, the Agreement remains in force for our review, which we have attached to this Order as Exhibit "A".

Aubon has been ordered by this Commission in Case No. PUE980628¹ to install water treatment facilities for its customers in Long Island Estates. Since Aubon has been unable to secure financing to install the ordered facilities, the Commission has granted Aubon an interim rate increase in Case No. PUE990002, which provided revenue to fund an escrow account from which to pay for the installation of the ordered water treatment facilities.²

Aubon failed to comply with the Commission's order³ requiring the funding of the escrow account, as reported by the

¹ Order of Settlement, issued January 13, 1999, Commonwealth of Virginia, ex rel. State Corporation Commission v. Aubon Water Company, Doc. Control Ctr. No. 981220202.

² Stephen M. Turner, et al. v. Aubon Water Company, Case No. PUE990002, 1999 S.C.C. Ann. Rpt. 459, 462.

³ Id. at 462.

Hearing Examiner in the Show Cause proceeding convened in Case No. PUE000567.⁴ On September 13, 2001, G. Ray Boone (Aubon's

⁴ Commonwealth of Virginia, ex rel. State Corporation Commission v. Aubon Water Company, Case No. PUE000567, Report of Michael D. Thomas, Hearing Examiner, Doc. Control Ctr. No. 010140067.

President), the Receiver, and counsel for Staff filed a Stipulation on Recommended Case Settlement in Case No. PUE000567 ("Stipulation"). A copy of the Stipulation is attached hereto as Exhibit "B."

The Stipulation recites the recommendation of the Hearing Examiner that Aubon be required to make the escrow account whole, and stipulates that the total shortfall in the escrow account as of March 1, 2001,⁵ was \$14,288.59. The Stipulation of Aubon, the Receiver, and Staff recommends that the current account payable by Aubon to Boone Accounting in the amount of \$14,696.38 should be applied as an offset to the unfunded escrow account shortfall of \$14,288.59 and the unfunded escrow account liability and the account payable would be erased.

Also on September 13, 2001, Petrus filed a Petition for Authority to Acquire Aubon Water Company in Case No. PUE010072 ("Petition to Acquire"). By his Petition to Acquire, Petrus states that he continues to operate Aubon as its Receiver and presently provides water utility service in four areas of Aubon's certificated territory, as follows: Franklin Heights (138 customers); Long Island Estates (46 customers); Alton Park (37 customers); and Hillcrest (16 customers).⁶ Pursuant to an

⁵ The last month Aubon operated without a Receiver.

⁶ Petrus states his intention to continue providing water utility service to all four parts, with the Franklin Heights portion being phased out in accordance with the Agreement with Rocky Mount, pending our approval.

agreement executed by Petrus and Aubon by its President, G. Ray Boone,⁷ Petrus now seeks ownership of Aubon and G. Ray Boone has agreed not to make claim of ownership or for any asset or for any sum of money.

The Commission finds that notice of the Agreement with Rocky Mount, the Stipulation, and the Petition to Acquire should be given to all parties and that the Clerk of the Commission should mail a copy of this Order, with attached Exhibits "A" and "B," to all of Aubon's customers at the addresses provided by the Receiver in Schedule "1," attached hereto.

The Commission now finds that all parties and customers of Aubon should have an opportunity to file written objections, written comments, or written requests for hearing on the Receiver's request for approval of the Agreement with the Town of Rocky Mount, the Stipulation of the parties and Staff, and the Receiver's Petition to Acquire. All written objections, comments, or requests for hearing should be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and must refer to Case No. PUE010072.⁸ Any request for hearing should state with specificity why a hearing should be conducted.

⁷ Exhibit "B" to the Petition to Acquire.

⁸ The case files for the above-captioned cases are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia.

All written objections, comments, or requests for hearing must be received by the Clerk for filing no later than Thursday, October 11, 2001, at 5:00 p.m.

The Commission's Divisions of Public Utility Accounting and Energy Regulation should analyze the Receiver's request for approval of the Agreement with the Town of Rocky Mount and present findings and recommendations thereon in a Staff Report to be filed on or before October 18, 2001.

Accordingly, IT IS ORDERED THAT:

(1) Notice is hereby given to all parties and customers of Aubon and leave is granted to said parties and customers of Aubon to file written objections, comments, or requests for hearing, consistent with the findings above.

(2) A Staff Report is directed to be filed, consistent with the findings above.

(3) The above-captioned cases are hereby continued until further order of the Commission.